Interview with Professor Meg Russell on regulating Lords appointments

The Westminster Hour, Radio 4, 22 February 2015

Carolyn Quinn: [the House of Lords] is now said to be the largest chamber in the world outside the People’s Republic of China, it has got 790 members at the moment, and once the general election is out of the way we can expect more appointments. The coalition’s plan for a smaller elected Lords bit the dust as you remember when Conservative MPs rebelled against the idea, and an elected Lords seems as far away as ever. Professor Meg Russell of the Constitution Unit is an expert on the Lords, and in her report, Enough is Enough, she’s calling for the power to appoint peers to be taken away from the Prime Minister. She’s proposing a formula for making sure that all the parties are represented fairly in the Lords, while at the same time keeping a lid on the numbers. She told me the time for reform was long overdue:

Meg Russell: The power to appoint to the House of Lords is completely unregulated, with the one exception that most Crossbenchers are now chosen by an independent commission. But in terms of how many peers are appointed, how often they’re appointed, what the balance is between the political parties and between the parties and the Crossbenchers, there is no regulation of that whatsoever. For many years, prime ministers (who hold that appointment power) just have not shown sufficient self-restraint to keep the size of the place in check. We’ve had the small change to enable people to retire, but very few, only five people have taken that option so far. So you’ve got this unregulated way into the Lords where prime ministers are tempted to put more people in to strengthen their own side and so on, and the size of the place has grown by a third in fifteen years. That’s just not sustainable.

CQ: So, in your view, how could it be regulated?

MR: I think what we need is two things. One is some agreement on the maximum size of the House, and that should be smaller than it is now, say, 600 or 650, the same size as the Commons - it shouldn’t be bigger than the Commons.

CQ: How many are there now?

MR: There are pushing 850. Just under 850 when you include everybody, including all the people who are on leave of absence and so on; it’s nearly 800 when those people are excluded, so much too big. So you need a target size, and to manage the size of the House down to that, and then to never exceed it again until the next reform happens.

CQ: But how do you do that, if you’re talking about maybe 2-300 surplus peers in your view?

MR: The way that most people leave the House of Lords is through death. There are about 20 deaths a year. So basically you need to replace people at a slower rate than they die. You shouldn’t be appointing more than 10 a year. So you should have a rule that you can only put one in for every two people who leave, and that would manage the size down gradually. But the problem is at the moment there’s so much uncertainty about the appointment process that people won’t retire because they’re not convinced that they are going to be replaced. So the other thing that you need
as part of a package, as well as a size cap, is some clear formula for how the seats are going to be
shared out when the appointments are made, because at the moment the Prime Minister could, in
theory, appoint only from his own side. There’s no formula. There needs to be something setting out
what the share is between the parties, and the obvious thing is to base it on general election votes.

CQ: So you’re saying that people are loath to retire even if they want to because they’re worried
that their party numbers in the House of Lords will get reduced...

MR: Yes.

CQ: ... and won’t be replenished at the rate they were.

MR: Without any control of the way in, without any kind of appointment formula, the only thing that
you guarantee by retiring is that there’s going to be one fewer person sitting on your party benches.
Who’s going to want to do that? I would like to see more power given to the House of Lords
Appointments Commission, to manage the size cap, to decide how many appointments can be made
each year, and to determine what the share is between them - and then the party leaders would put
forward names to fill those slots.

CQ: Just to get back to the surplus numbers, in your view, you’re not going to get 2-300 volunteering
to retire instantly, so you are still going to have a surplus number for some years hence?

MR: I think that regulating appointments could be a key that unlocks other things. There’s talk in the
Lords about introducing a retirement age, even if it’s primarily a voluntary one. So it could even be
85, it could be 80. If it were 80, I think there are about 160 members who are over 80. So you could
get quite a large number of retirements in exchange for some regulation of the way in.

CQ: And what about this reduction in prime ministerial power, why would David Cameron give that
up as Prime Minister? If Ed Miliband becomes Prime Minister, why would he give up the power to
have his chance at putting his numbers into the Lords?

MR: Well, patronage is very attractive, undoubtedly, but I think that if it’s a fair system, where all of
the parties get a share of the appointments, then the Prime Minister’s party is going to get a bigger
share than any other party by definition: because it’s the governing party, it’s the biggest. One of the
problems is that the way that appointments have always worked is that the Prime Minister has a
tendency to put more in from their own side than from the opposition, and so you get this sort of
game of catch-up, where Conservatives put more Conservatives than Labour, and then Labour gets
into power and puts in more from their side than the Conservatives, and so on. That’s one of the
reasons why the numbers keep going up. The Prime Minister decides how many appointments, the
share of appointments between the parties, how regularly they are made, as well as deciding who
his own party appointees are. That’s just not really appropriate in a modern parliament. The House
of Lords does matter a lot more than it used to do in British politics - the 1999 reform revived it to a
large extent: it’s much more often in the news, it’s much more often challenging the government,
it’s taken much more seriously than it used to be. And yet, the mechanism to get in there is
completely unregulated.